REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-15, 17, 18, 20, 21, 23, 28, 32, 34-36, 39, 40, 51-53, 63, 65, 70-73, 76-78[2], 92, 106, and

144-147 are all the claims pending in the application. In response to the Office Action,

Applicant respectfully submits that the claims define patentable subject matter.

As a preliminary matter, Applicant thanks the Examiner for the courtesies extended to

Applicant's representative during the personal interview conducted with the Examiner, the

Examiner's supervisor and Applicant's representative on October 29, 2008. During the

Interview, the rejections based on Eyer were discussed. Specifically, Applicant submitted that

there is no teaching or suggestion in Eyer of "a capture system located remote from said user

device, at a server side of the content delivery system, and operable to capture and process

content data as the content data is broadcast from a content broadcaster", as recited in

independent claim 1, or "a transmitter operable to transmit, in response to a first user input

identifying content to be recorded, a request to a remote capture system to capture the content

identified by said first user input", as recited in claim 1 and further recited in independent claim

51 and analogously required by independent claims 70 and 106.

Applicant further submitted that there is no teaching or suggestion in Eyer that the

"capture system is operable to download data defining a graphical user interface based on the

record of the content stored in the storage device of the user device", as recited in claim 1.

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[2] In Box 6 of the Office Action Summary, the Examiner indicates that claim 79 is rejected. Applicant
assumes that this is a typographical error, since claim 79 has been cancelled. The Examiner is
requested to clarify this discrepancy.

The Examiner and the Examiner's supervisor agreed that these features are not taught by Eyers, and indicated that the Examiner will withdraw the rejection upon receipt of Applicant's Response.

I.   Overview of the Office Action

Claims 51-53, 65, 70-73, 76-78, 106, and 144-147 are rejected under 35 U.S.C. § 102(e) as being anticipated by Eyer et al. (U.S. Patent No. 6,789,106, hereafter "Eyer"). Claims 1-4, 7-13, 17, 18, 23, 28, 32, 34-36, 39, 40, 63, and 92 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyer in view of De Bey et al. (WO 91/03112, hereafter "De Bey") and Hendricks et al. (U.S. Patent No. 6,539,548, hereafter "Hendricks"). Claims 5, 6, 20, and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyer in view of De Bey and Hendricks and further in view of Novak et al. (U.S. Patent No. 7,320,137, hereafter "Novak"). Claims 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyer in view of De Bey and Hendricks, and further in view of alleged well known prior art. Applicant respectfully traverses the prior art rejections.

II.   Rejection of independent claims 51, 70, and 106

The Examiner asserts that Eyer discloses all of the elements of independent claim 51. Applicant respectfully disagrees with the Examiner's position.

Claim 51 and analogous independent claims 70 and 106 recite in part:

> a first receiver operable to receive user input;
>
> a transmitter operable to transmit, in response to a first user input identifying content to be recorded, a request to a remote capture system to capture the content identified by said first user input;

a second receiver operable to receive captured and processed content data from said remote capture system;

a storage device for storing the captured and processed content data received by said second receiver; and

a playout unit operable to playout the contents stored on the storage device only in response to receiving a remote transmission indicating permission to playout the contents;

whereby the user device initiates server side capture of the content, provides client side storage of the captured content, and initiates playout of the captured content under server side control.

Applicant respectfully submits that there is no teaching or suggestion in Eyers of the element "a transmitter operable to transmit, in response to a first user input identifying content to be recorded, <u>a request to a remote capture system to capture the content identified by said first user input</u>", as recited in claim 51 and analogously required by claims 70 and 106. Support for this feature of the clam can be found, for example, on pages 15-18 of the original specification.

This aspect of the claimed invention allows the server-side access and capture of audio/video data. A user may indicate or create a list of programs to be broadcast or programs currently being broadcast which the user wishes to record. The programs are then captured during broadcast of the programs or the capture device looks ahead for all programs that are to be recorded which are due to start or end within a specified period and then generates the appropriate instructions to enable capture and recording of the requested program (see for example, page 19 of the original specification). Accordingly, the requested programs are <u>remotely</u> captured <u>during</u> their broadcast.

This clearly differs from the teachings of Eyer which discloses a system which enables a <u>user</u> of a multimedia system to easily choose one or more audio/visual (A/V) programs for

viewing and purchase (column 1, lines 35-39). Eyer discloses that a user who has access to the audio/visual objects selectively "grabs" that object as desired. The objected grabbed is the current A/V object being <u>received</u> or the most recent A/V object <u>received</u> (column 2, lines 41-49). Eyer further teaches that the user communicates a desire to grab a particular A/V object through interaction with an interactive control element (a set-top box) within the television system (therefore, at the user's location). Each A/V object is provided by the service provider 10 to the interactive control element for play. As each object is played by the interactive control element, it is temporarily stored in a local storage memory for easy access in the event that the user decides to grab it (column 8, lines 48-58). Accordingly, the A/V objects are received at the user location, stored, and then grabbed by the user. Nowhere does Eyer teach or suggest "a transmitter operable to <u>transmit, in response to a first user input identifying content to be</u> <u>recorded, a request to a remote capture system to capture the content identified by said first user</u> <u>input</u>", as recited in the claim. Eyer allows the capture of A/V objects at a user's location by the user, and does not teach or suggest transmitting a request <u>to a remote capture system to capture</u> <u>content</u> identified by a user input, as required by the claims.

      Further with respect to claims 51 and 70, Applicant respectfully submits that there is no teaching or suggestion in Eyer of the element "a playout unit operable to playout the contents stored on the storage device only in response to receiving a remote transmission indicating permission to playout the contents", as recited in the claim. Support for this feature of the clam can be found, for example, on pages 11-12 and 26 of the original specification.

      According to this aspect of the claimed invention, if the user selects an item from his/her personal video recorder (PVR), an appropriate permission (for example, an electronic ticket) is downloaded remotely from the PVR server to the user's set top box together with a link to a call

manager which stores the information about where the item is recorded. The user's set top box

then uses the link to connect to the call manager which in turn, redirects the user's set top box to

retrieve the recorded object either from the internal hard disc of the set top box or from the

appropriate remote video server.

The Examiner cites column 3, lines 25-42, and column 9, lines 18-21 and 51-67 of Eyer

as allegedly teaching this element of the claim. However, these cited portions of Eyer merely

teach that the program listing database of 18 of an information server 16 conveys information

about an object to the set-top box that allows the object to be easily grabbed by the user. This

information may include an identifier of the object, the location of the object, the cost of the

object or the number of copies that may be made legally. Further, a user may utilize a graphical

user interface to grab objects which have not been played for an extended period of time.

Nowhere do these cited portions (or any other portion) of Eyer teach or suggest "a playout unit

operable to playout the contents stored on the storage device only in response to receiving a

remote transmission indicating permission to playout the contents", as recited in the claim.

Still further, Applicant respectfully submits that there is no teaching or suggestion in Eyer

that "the user device initiates server side capture of the content, provides client side storage of

the captured content, and initiates playout of the captured content under server side control", as

recited in laim 51 and analogously recited in claim 106.

As discussed above, Eyer does not teach or suggest that A/V content is captured remotely

at the server side. Eyer teaches a system which allows a user to grab locally stored content at a

local device. Moreover, Eyer does not teach that the playout of content stored in the storage

device is under control of the server side of the content delivery system. To the contrary, Eyer

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teaches that the stored objects are played out under control of the user and devices <u>at the local or</u> <u>client side</u>.

Accordingly, Applicant respectfully submits that independent claims 51, 70 and 106 should be allowable because the cited reference does not teach or suggest all of the features of the claims. Claims 52, 53, 63, 65, 144, 145, 71-73, 76-78, 146, and 147 should also be allowable at least by virtue of their dependency on independent claims 51 and 70.

III.   Rejection of independent claim 1

The Examiner asserts that Eyer discloses all of the elements of independent claim 1 except for "the capture system is operable to maintain a record of all content transmitted to said user device for storage in said storage device" and "said graphical user interface identifies content…that has been captured automatically by said capture system based on a user profile for the user associated with the user device", as recited in the claim. The Examiner thus relies on De Bey and Hendricks to allegedly cure this conceded deficiency. Applicant respectfully disagrees with the Examiner's position.

As previously discussed, there is no teaching or suggestion in Eyer of "a capture system <u>located remote from said user device</u>, at a server side of the content delivery system, and <u>operable to capture and process content data as the content data is broadcast</u> from a content broadcaster", as recited in claim 1.

Eyer is based on a multimedia system which allows a user to grab or capture A/V objects <u>after</u> the objects have been received and stored at a <u>local client side</u> device (see for example, column 1, lines 40-53, column 1, line 62 to column 2, line 15, column 2, lines 41-63, column 3, lines 22-44, column 8, lines 48-66, and column 9, lines 18-35 of Eyer). Eyer does not remotely

capture and process content data as the data is broadcast from a content broadcaster, as required

by the claim.

Further, Applicant respectfully submits that there is no teaching or suggestion in Eyer of

"a transmitter operable to transmit, in response to a first user input identifying content to be

recorded, a request to said remote capture system to capture the content identified by said first

user input", as recited in claim 1. Eyer teaches that a user captures objects after the objects have

been transmitted by a content provider and stored in a local storage device. This differs from the

claimed invention which requires the remote capture of content.

Further, Applicant respectfully submits that there is no teaching or suggestion in Eyer

that the "capture system is operable to download data defining a graphical user interface based

on the record of the content stored in the storage device of the user device", as recited in the

claim. Support for this feature of the clam can be found, for example, on pages 9 and 63 of the

original specification.

According to this aspect of the present invention, the remote personal video recorder

(PVR) server retrieves the user's PVR list of programs that are currently stored in the user's

personal video recorder. The list is retrieved from the applications database and downloaded to a

user interface server which creates an HTML file defining a menu page showing the user's PVR

list which it passes to the user's set-top box for display to the user.

Eyer merely teaches that a user may use a GUI to select any A/V object played or

otherwise available to be grabbed (column 9, lines 51-67). Nowhere does Eyer teach or suggest

that a remote capture system downloads data defining a graphical user interface based on the

record of the content stored in the storage device of the user device, as required by the claim.

Further, De Bey and Hendricks do not cure the deficiencies of Eyers.

Accordingly, Applicant respectfully submits that independent claim 1 should be allowable because the cited reference does not teach or suggest all of the features of the claim. Claims 2-15, 17, 18, 20, 21, 23, 28, 32, 34-36 39 and 40 should also be allowable at least by virtue of their dependency on independent claim 1.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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